



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 14, 2015

Mr. William H. Kuntz, Jr.
Executive Director
Texas Department of Licensing and Regulation
Post Office Box 12157
Austin, Texas 78711

Opinion No. KP-0034

Re: Whether municipalities or local law enforcement agencies are authorized to impound a motor vehicle for lack of proof of insurance or financial responsibility (RQ-0014-KP)

Dear Mr. Kuntz:

Explaining that some cities are adopting ordinances that provide for “the impoundment of vehicles by local law enforcement for failure to maintain liability insurance or other forms of financial responsibility,” you inquire about the authority of a municipality or local law enforcement agency to impound a vehicle for lack of proof of financial responsibility.¹

We first consider the authority of local law enforcement agencies. The Motor Vehicle Safety Responsibility Act, found in chapter 601 of the Transportation Code, requires a person operating a motor vehicle in this state to establish financial responsibility for the vehicle. *See* TEX. TRANSP. CODE ANN. § 601.051 (West 2011); *see also id.* § 601.001 (identifying chapter as the “Texas Motor Vehicle Safety Responsibility Act”). A person operating a vehicle in this state shall on request “provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility.” *Id.* § 601.053(a)(1)–(7) (West Supp. 2014) (listing methods by which to demonstrate evidence of financial responsibility).² A person who does not provide evidence of financial responsibility as requested “is presumed to have operated the vehicle in violation of Section 601.051.” *Id.* § 601.053(b). The operation of a vehicle in violation of section 601.051 constitutes a criminal offense for which the operator may be arrested or cited. *Id.* § 601.191(a) (West 2011); *see also* TEX. CODE CRIM. PROC. ANN. arts. 14.01(b) (West 2015) (authorizing a peace officer to “arrest an

¹*See* Letter from Mr. William H. Kuntz, Jr., Exec. Dir., Tex. Dep’t of Licensing & Regulation, to Honorable Ken Paxton, Tex. Att’y Gen. at 1 (Feb. 13, 2015), <https://texasattorneygeneral.gov/opinion/requests-for-opinion-rqs> (“Request Letter”).

²With the 2013 enactment of Senate Bill 181, a person may provide evidence of financial responsibility with “an image displayed on a wireless communication device that includes the information required by Section 601.081 as provided by a liability insurer.” TEX. TRANSP. CODE ANN. § 601.053(a)(2-a) (West Supp. 2014).

offender without a warrant for any offense committed in his presence or within his view”), 14.06(b) (authorizing a peace officer to issue a citation).

Chapter 545 of the Transportation Code expressly authorizes peace officers to remove a vehicle from a highway if the vehicle is “operated by a person an officer arrests for an alleged offense and the officer is required by law to take the person into custody.” TEX. TRANSP. CODE ANN. § 545.305(a)(8), (b) (West 2011). Under chapter 545, a law enforcement agency may also “remove personal property from a roadway or right-of-way if the . . . law enforcement agency determines that the property . . . endangers public safety.” *Id.* § 545.3051(b); *see id.* § 545.3051(a)(3)(A) (defining personal property to include vehicles under section 545.305). Accordingly, under certain circumstances, peace officers are authorized to remove a vehicle from a roadway, but that authority is not unfettered. The removal of a vehicle is a seizure of property afforded certain protections by the United States and Texas Constitutions. *See* U.S. CONST. amend. IV (ensuring “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures”); TEX. CONST. art. I, § 9 (providing that “[t]he people shall be secure in their persons, houses, papers and possessions, from all unreasonable seizures and searches”). The reasonable seizure or “[t]he impoundment of an automobile may be lawful under various circumstances.” *Bass v. State*, 835 S.W.2d 815, 819 (Tex. App.—Beaumont 1992, no writ). Courts most often consider the reasonableness of an impoundment when a vehicle driver is arrested and challenges the legality of the impoundment and subsequent search. *See, e.g., Benavides v. State*, 600 S.W.2d 809, 810–12 (Tex. Crim. App. 1980). The reasonableness of an impoundment involves various factors, including

- (1) the availability of someone at the scene of the arrest to whom the police could have given possession of the vehicle; (2) whether the vehicle was impeding the flow of traffic or was a danger to public safety; (3) whether the vehicle was locked; (4) whether the detention of the arrestee would likely be of such duration to require the police to take protective measures; (5) whether there was some reasonable connection between the arrest and the vehicle; and (6) whether the vehicle was used in the commission of a crime.

Mayberry v. State, 830 S.W.2d 176, 179–80 (Tex. App.—Dallas 1992, pet. ref’d) (citations omitted).

While such cases involve drivers unable to drive the vehicle because of an arrest, at least one Texas court has concluded that failure to establish financial responsibility may result in probable cause for a warrantless seizure, applying the reasonableness test to a driver who is unable to drive the vehicle for failure to provide evidence of financial responsibility. *See Maricle v. Biggerstaff*, 10 F. Supp. 2d 705, 706–08 (N.D. Tex. 1998) (upholding police decision to impound vehicles because none of the drivers could establish financial responsibility). A vehicle that is left on the highway or roadway because the driver is arrested or may no longer operate the vehicle may constitute a public safety hazard, and if so, the vehicle’s impoundment could be a reasonable seizure. As a general matter, peace officers of the state, including those working for local law enforcement agencies and municipalities, may remove a vehicle from a roadway to protect the public safety and under reasonable circumstances when the driver fails to provide evidence of

financial responsibility.³ Whether a particular impoundment is constitutionally reasonable will depend on the facts in any given instance.

We next consider the authority of municipalities. Transportation Code chapter 601 does not expressly authorize a municipality to enforce the chapter's requirements by providing for the impoundment of vehicles. *See generally* TEX. TRANSP. CODE ANN. §§ 601.001–.454 (West 2011 & Supp. 2014). Neither does chapter 601 expressly prohibit a municipality from enforcing its provisions. *See id.* Under the Home-Rule Amendment, home-rule cities look “to the Legislature, not for grants of power, but only for limitations on their powers.” *S. Crushed Concrete, L.L.C. v. City of Houston*, 398 S.W.3d 676, 678 (Tex. 2013); *see also* TEX. CONST. art. XI, § 5. So long as its acts are consistent with the state statutes and the constitution, a home-rule municipality has the “full power of local self-government.” TEX. LOC. GOV'T CODE ANN. § 51.072(a) (West 2008). Thus, in the exercise of its self-government, a home-rule municipality may adopt an ordinance regarding the impoundment of vehicles for the offense of lack of financial responsibility, provided such an ordinance is not in conflict with any statute and conforms to the constitutional constraints previously discussed. *See generally* TEX. OCC. CODE ANN. § 2308.208 (West 2012) (authorizing a municipality to adopt an ordinance identical to or that imposes additional requirements and that is not in conflict with chapter 2308 to regulate unauthorized vehicles and towing of motor vehicles).

In contrast, a general-law municipality is a creature of statute and possesses only those powers expressly granted by general law or implied therefrom. TEX. CONST. art. XI, § 4. A general-law municipality may adopt an ordinance or rule that is “for the good government, peace, or order of the municipality” and “is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.” TEX. LOC. GOV'T CODE ANN. § 51.001 (West 2008); *see also id.* § 51.012 (providing a Type-A general-law municipality with authority to adopt an ordinance “not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality”). Provided there is no conflict with state statute or the U.S. or Texas Constitutions, an ordinance providing for the removal or impoundment of the vehicle of a driver arrested or cited for the offense under section 601.051 may serve the peace and good order of a municipality by removing a potential traffic obstacle as well as protecting private property. In addition, such ordinance must be necessary or proper to carry out the power vested in law enforcement agencies to impound a vehicle incident to arrest.

Your request letter also includes a concern regarding municipal ordinances that condition the release of the impounded vehicle on presentation of valid liability insurance. *See* Request Letter at 1. Assuming, based on our analysis above, that a municipality may adopt an ordinance providing for the impoundment of a vehicle when the driver provides no evidence of financial responsibility, we consider whether such authority includes authority to condition the release of

³You raise the existence of several bills that have failed to pass. Request Letter at 1 (referring to bills from several previous legislatures as well as from the current Eighty-fourth Legislature). You describe these bills as providing express authorization for law enforcement agencies to impound a vehicle in various circumstances and suggest that without such express authority, a local law enforcement agency lacks authority to impound a vehicle. *See id.* Courts find “no controlling significance to the Legislature’s failure to enact legislation.” *Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 443 (Tex. 2009). Thus, it cannot be implied from the fact that the Legislature did not enact these bills that a local law enforcement agency is without impoundment authority.

the vehicle on presentation of valid liability insurance. Contained within chapter 2303 of the Occupations Code governing vehicle storage facilities, section 2303.160 provides for the release of an impounded vehicle. *See* TEX. OCC. CODE ANN. § 2303.160(b) (West 2012); *see also id.* §§ 2303.001–.305 (West 2012 & Supp. 2014) (governing vehicle storage facilities). Section 2303.160 requires a vehicle storage facility to release a vehicle to the owner or operator who pays any lawful charges and provides valid photo identification. *See id.* § 2303.160(c) (West 2012). While it expressly states that evidence of financial responsibility must be accepted by a vehicle storage facility “as an additional form of identification that establishes ownership or right of possession or control of the vehicle,” nowhere in section 2303.160 has the Legislature conditioned release of a vehicle upon a showing that the owner or possessor has complied with all motor vehicle safety laws such as providing evidence of financial responsibility. *Id.* § 2303.160(b). Presumably, section 2303.160 evidences an intent to limit the release of a vehicle based on proper identification of a person as the owner or operator rather than on the person’s compliance with traffic laws. Yet, a municipality that requires a vehicle storage facility to verify proof of financial responsibility as a condition of release of an impounded vehicle, in essence, attempts to delegate the law enforcement duty of enforcing traffic laws to a vehicle storage facility. A court would likely conclude that such a duty may exceed the authority placed on a vehicle storage facility by statute.

Moreover, the Legislature has expressly required the demonstration of proof of financial responsibility in only limited instances. Section 601.053 of the Transportation Code requires the operator of a vehicle to provide, on request, to a peace officer evidence of financial responsibility. TEX. TRANSP. CODE ANN. § 601.053(a) (West Supp. 2014); *see also id.* § 601.053(c) (providing a means for the peace officer to verify the validity of the proof). A vehicle operator must also provide proof of financial responsibility to a person with whom the vehicle operator is in an accident. *See id.* § 601.053(a). Finally, a person charged with the offense of operating a vehicle without proof of financial responsibility may produce proof of financial responsibility valid at the time of the offense to a judge as a defense to prosecution. *See id.* § 601.193(a) (West 2011). These provisions indicate that the Legislature knows how to require evidence of proof of financial responsibility, and it has not done so with respect to the release of vehicles from a vehicle storage facility. *See Zanchi v. Lane*, 408 S.W.3d 373, 380 (Tex. 2013) (relying on principle of statutory construction that the Legislature knows how to enact laws effectuating its intent). A requirement that a person demonstrate proof of financial responsibility as a condition to securing release of an impounded vehicle places a burden on the vehicle storage facility and the person that is not in the statute. And while a municipal ordinance may impose more stringent standards than a statute on the same subject in many instances, one that serves to narrow or restrict a state statute could be determined by a court to conflict with the statute. *See Tex. Att’y Gen. Op. No. KP-0026* (2015) at 3–4 (concluding that a city charter provision precluding from serving on a board a person eligible to serve under state statute would be inconsistent with state law).

For these reasons, a court would likely conclude that a municipality may not condition release of a vehicle impounded for lack of evidence of financial responsibility upon presentation of such evidence to a vehicle storage facility.

S U M M A R Y

Under constitutionally reasonable circumstances, peace officers of the state, including those working for local law enforcement agencies and municipalities, may impound a vehicle to protect the public safety when the driver fails to provide evidence of financial responsibility. A home-rule municipality, and likely a general-law municipality, has authority to adopt an ordinance regarding the impoundment of vehicles for the offense of lack of financial responsibility provided that such an ordinance is not in conflict with any statute and also conforms to any constitutional constraints.

A court would likely conclude that a municipality may not condition release of a vehicle impounded for lack of evidence of financial responsibility upon presentation of such evidence to a vehicle storage facility.

Very truly yours,

A handwritten signature in dark ink that reads "Ken Paxton". The signature is written in a cursive, flowing style with a large initial "K" and a long, sweeping underline.

KEN PAXTON
Attorney General of Texas

CHARLES E. ROY
First Assistant Attorney General

BRANTLEY STARR
Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER
Chair, Opinion Committee

CHARLOTTE M. HARPER
Assistant Attorney General, Opinion Committee

TOWING, STORAGE AND BOOTING ADVISORY BOARD

Compliance Division Staff Report

January 14, 2016

Outreach Efforts

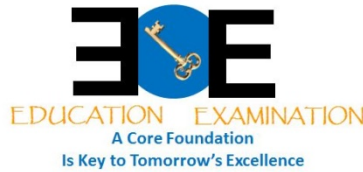
- Compliance has scheduled the second vehicle storage facility workshops in the Woodlands on February 8th. These workshops covered and provided the compliance manual to approximately 30 VSF employees each day as well as answered any questions they had on any VSF process.
- Compliance, along with Jeff Copas, Latasha Poland, and several other representatives from TDLR, are working on the fourth issue of “The Hook-Up” to better communicate with the industry.
- Compliance is compiling information and numbers for setting the environmental fee for vehicle storage facilities.
- Compliance is working for a towing compliance manual which will function alongside the VSF compliance manual.

Internal Efforts

- Compliance has worked closely with customer service in making improvements to the manual for the reps and a manual for the ombudsman to give them better guidance and to provide the most accurate information to calls from the industry.
- Compliance is continuing to developing internal policies and procedures to ensure continuity with the program in the future.
- Compliance is continuing to compile all information from the task force meeting and other internal meetings to show the answers the agency has for certain situations and the reasoning behind the answer. This is going to be maintained on our internal page in hopes of having a better institutional memory going forward.

Towing and Storage Advisory Board

January 14, 2016



Growth in the Education and Examination Division:

The Education and Examination Division has grown to 3 sections.

- School Inspections/Site Visit Section
- Driver Education and Safety Section
- Education and School Services Accreditation and Certification Section

Each section is fully staffed with the exception of one more person to be hired for the Education and School Services Section. This person will be for Health Courses and CE Support.

Continuing Education Statistics

TOW - FY 2014	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Provider registrations issued	1	0	0	1	1	0	0	1	0	0	0	0	0	0	0	0	2
Course approvals issued	3	0	1	4	2	8	3	13	2	2	4	8	4	7	0	11	36
Provider renewal registrations issued	0	1	0	1	0	2	0	2	0	0	0	0	0	0	0	0	3
Total provider population*****	21	21	20	20	21	21	21	21	397	403	404	404	398	393	393	393	393
Total course population	35	33	34	34	35	37	37	37	36	38	37	37	35	37	37	37	37

TOW - FY 2015	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course approvals issued	3	3	0	6	2	6	4	12	2	2	2	6	10	7	1	18	42
Total course population	37	40	40	40	41	39	41	41	39	38	39	39	42	43	41	41	41
Total provider population (overall)	393	386	393	393	388	381	382	382	388	388	389	389	390	395	396	396	396

TOW - FY 2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course approvals issued	1	0	2	3													3
Total course population	42	37	39	39													39
Total provider population (overall)	393	394	391	391													391

BOOT - FY 2014	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Provider registrations issued	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1
Course approvals issued	0	0	0	0	1	0	0	1	1	0	0	1	0	0	0	0	2
Provider renewal registrations issued	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total provider population*****	2	2	2	2	3	3	3	3	397	403	404	404	398	393	393	393	393
Total course population	1	1	1	1	2	2	1	1	2	2	2	2	2	2	2	2	2

BOOT - FY 2015	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course approvals issued	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	2
Total course population	2	2	2	2	1	1	3	3	2	2	2	2	2	2	2	2	2
Total provider population*****	393	386	393	393	388	381	382	382	388	388	389	389	390	395	396	396	396

BOOT - FY 2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course approvals issued	0	0	0	0													0
Total course population	2	2	2	2													2
Total provider population (overall)	393	394	391	391													391

Towing Operator Continuing Education Providers

Provider Name (click link to check course detail)	Provider #	City	State	Expiration Date
AARON'S MOBILE & PC A/V CLASSROOM	1924	ABBOTT	TX	2/18/2016
ABBA TRAINING ONLINE	1298	ABBOTT	TX	2/9/2016
ALL STAR TRAINING INC	1235	ADDISON	TX	3/6/2016
EXCLUSIVE CE	1714	AUSTIN	TX	4/9/2016
YOUNGDLANE LEARNING SOLUTIONS	1814	AUSTIN	TX	8/12/2016
COMPLETE INCIDENT RESPONSE TRAINING CIRT	1620	CONVERSE	TX	2/3/2016
NORTH TEXAS TOW TRUCK TRAINING ACADEMY	1631	DALLAS	TX	6/2/2016
AFFORDABLE R & D EDUCATION PROVIDER	1474	EL PASO	TX	2/12/2016
AMERICAN CONTINUING EDUCATION LLC	1129	FLOWER MOUND	TX	11/26/2016
TX CONTINUING EDUCATION.COM	1522	HONEY GROVE	TX	8/9/2016
T.O.W.S	1639	HOUSTON	TX	8/13/2016
TEXAS TOWING CE	1617	HOUSTON	TX	5/6/2016
T.O.A.D.	1916	PORTER	TX	10/20/2016
SOUTHWEST TOW OPERATORS	1616	RICHARDSON	TX	2/6/2016
VISTA COLLEGE	1890	RICHARDSON	TX	10/24/2016
EASYLEARN 24 ONLINE TRAINING SCHOOL INC	1715	SAN ANTONIO	TX	12/2/2015
TEXAS TOWING AND STORAGE ASSOCIATION	1618	SPRING	TX	1/21/2016
ELITE CME INC	1201	ORMOND BEACH	FL	2/8/2016
TECES.ORG	1301	CINCINNATI	OH	10/6/2016
@ HOME PREP - STAUTZENBERGER COLLEGE	1951	KNOXVILLE	TN	4/22/2016

Booting Operator Continuing Education Providers

Provider Name (click link to check course detail)	Provider #	City	State	Expiration Date
AARON'S MOBILE & PC A/V CLASSROOM	1924	ABBOTT	TX	2/18/2016
T.O.W.S	1639	HOUSTON	TX	8/13/2016
VISTA COLLEGE	1890	RICHARDSON	TX	10/24/2016

Driver Certification Programs

AAA – Texas

National Drivers Certificate Program of the Towing and Recovery Association of America

Southwest Tow Operators Association

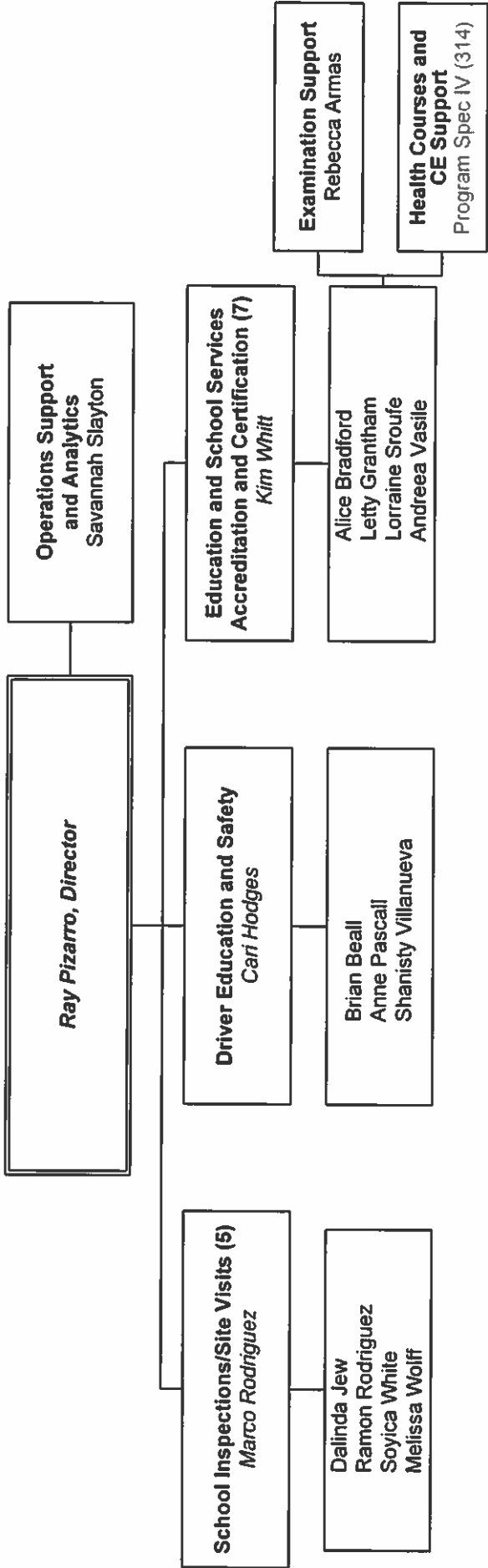
Texas Towing and Storage Association

Towing and Recovery Association of America

TOWS (Training of Wrecker Services)

WreckMaster Inc (proctored)

Education and Examination (18)



Towing, Storage and Booting Advisory Committee

Enforcement Division Staff Report January 16, 2016

Case Highlights

- On December 1, an agreed order was entered against Edwin Mittag, d/b/a Hughes Wrecker Service, assessing an administrative penalty of \$6,000 for failing to maintain required records, failing to make reasonable effort to ensure the preservation of a stored vehicle, and failing to include the dates and services performed on VSF bills.
- On December 3, a default order was entered against Rogelio Gutierrez, d/b/a Gutierrez Complete Auto Repair, assessing an administrative penalty of \$7,200 for failing to establish/follow drug policy, failing to have data plates on equipment, and failing to have proper signage on both sides of the tow truck.
- On December 3, an agreed order was entered against Gilbert Garcia, d/b/a Gilbert's Body Shop, assessing an administrative penalty of \$5,250 for failing to make reasonable effort to ensure the preservation of a stored vehicle and failing to include the dates and services performed on multiple VSF bills.
- On December 16, a default order was entered against Saul Gonzalez, d/b/a Italiano Towing Service, assessing an administrative penalty of \$5,000 for towing a vehicle with an expired tow operator license and towing with a vehicle that had a hydraulic fluid leak at the lift mechanism.
- On December 16, a default order was entered against Alex Segura, d/b/a Texas Roadside Services, assessing an administrative penalty of \$4,900 for operating a VSF with an expired VSF employee license, failing to separate tow and storage charges, failing to include Department information on notification letters, and failing to maintain proper signage.

Key Statistics

Shown below are key statistics for the Towing and Vehicle Storage programs and for all TDLR programs combined through November of Fiscal Year 2016.

<u>Statistic</u>	<u>TOW</u>	<u>VSF</u>	<u>TDLR</u>
• Number of cases opened:	411	116	2,818
• Number of cases resolved:	411	192	2,684
• Number of Agreed Orders:	32	28	431
• Total amount of penalties assessed:	\$62,575	\$51,375	\$1,032,350
• Total amount of penalties collected:	\$43,525	\$32,450	\$421,789

<u>Average Penalty</u>	<u>TOW</u>	<u>VSF</u>	<u>TDLR</u>
• Fiscal Year 2015	\$2,549.11	\$1,469.49	\$1,384.39
Licensed	\$2,512.81	\$1,410.89	
Unlicensed	\$2,780.26	\$2,075	
• Fiscal Year 2016 <i>(Through November)</i>	\$2,214.29	\$2,337.07	\$1,384.39
Licensed	\$2,003.13	\$2,316.67	
Unlicensed	\$2,495.83	\$2,612.50	

Top 10 Violations in Disciplinary Actions

Shown below are the ten most common violations found in disciplinary actions for the Towing and Vehicle Storage programs through November of Fiscal Year 2016.

TOW

Criminal Activity	13
Fail to have data plates on equip	12
Didn't establish/follow drug policy	9
Expired tow company license	8
Employed unlicensed person	7
No tow operator license	7
No/improper signage on truck	4
TOW-Fail to have each truck permitted	4
Lacks honesty/trustworthiness/integrity	4
Without authority-Illegal tow	3

VSF

Sign violations	9
Failed to timely send/publish notice	8
Failed to secure to prevent theft	8
Didn't establish/follow drug policy	6
No reasonable efforts to store	3
Charged impound w/o services or date	3
Not completely enclosed by 6' fence	2
Charges on combo tix not separated	2
Fail to notify law enforcement	2
Nonconsent TOW ticket incomplete	2

Towing, Storage and Booting Advisory Board Meeting

Field Operations Division Report



The Face of TDLR

January 14, 2016

MOST COMMON VIOLATIONS

Tow Companies Most Common Violations Found During Inspections

- 1. Vehicle Signage.** – 14 Tex. Occupations Code Ch. 2308.109(b) & 16 Tex. Admin. Code Ch. 86.701(b). The information required to be displayed must be printed in letters at least 2 inches high, contrasting with background, and permanently affixed in conspicuous places on both sides of the tow truck.
- 2. Alcohol and Drug Testing of Towing Operators.** - 14 Tex. Occupations Code Ch.2308.158(a) and 16 Tex. Admin. Code Ch.86.710. A towing company shall establish an alcohol and drug testing policy for towing operators.
- 3. Vehicle Signage.** – 14 Tex. Occupations Code Ch. 2308.109(a) & 16 Tex. Admin. Code Ch. 86.701(a). Failure to display on the tow truck the permit holder's name, telephone number, city and state, and the permit number for the truck.
- 4. Equipment Violations.** – 16 Tex. Admin. Code Ch. 86.1000(a)(1)(2). Failure to display a legible manufacturer's data plate or manufacturer's documentation indicating the capacity of the boom, the winch or the carry mechanism.
- 5. Tow Ticket.** – 16 Tex. Admin. Code Ch. 86.709(e). Failure of a towing company to prepare and issue a tow ticket that contains the licensed name of the towing company, publicly listed telephone number, towing company certificate of registration number, and the TDLR license number of the towing operator.
- 6. Equipment Violations.** – 14 Tex. Occupations Code Ch. 2308.108(c) & 16 Tex. Admin. Code Ch.86.206(c). Failure of a permit holder to keep a cab card in the cab of each permitted tow truck.
- 7. Unlicensed Operator Activity.** - 14 Tex. Occupations Code Ch. 2308.151(1) and 16 Tex. Admin. Code Ch. 86.207(a). Performed towing operations without the appropriate license.
- 8. Financial Responsibility.** – 14 Tex. Occupations Code Ch. 2308.110(d). A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.
- 9. Failure to notify the department of changes.** 16 Tex. Admin. Code Ch. 86.702(a)(2). A licensee or permit holder shall notify the department of changes of the licensee's or permit holder's mailing, physical address, and email address, no later than the effective date of the change.

10. Insurance Requirement Coverage. 16 Tex. Admin. Code Ch. 86.400(d)(1 & 2). Tow truck permit applicants and permit holders must obtain insurance for each permitted tow truck that meets the requirements. Insurance covering permitted tow trucks must be kept in full force and effect at all times.

Vehicle Storage Facilities Most Common Violations Found During Inspections

1. Storage Lot Signs. – 16 Tex. Admin. Code Ch. 85.1003(d). Failure to have a sign describing the documents that may be presented by the vehicle owner or his/her authorized representative to obtain possession of the vehicle.

2. Notice of Complaint Procedure. – 16 Tex. Admin. Code Ch. 86.707(a)&(b). Failure to notify the vehicle owner of the department's website and email address, mailing address, and telephone number, for purposes of directing complaints regarding the vehicle storage to the department. The notice shall be included on a sign prominently displayed to the public at the place of payment, with letters at least one inch in height, and a contrasting background; and the front page of any bill for service.

3. Storage Lot Signs. – 16 Tex. Admin. Code Ch. 85.1003(a). Failure to have a clearly visible and readable sign at its main entrance, containing the registered name, address, phone number for release of the vehicle, facility hours and the storage lot's state license number. Such sign shall have letters at least 2 inches in height, with contrasting background, shall be visible at 10 feet.

4. Failure to follow the Drug Test Policy. – 16 Tex. Admin. Code Ch. 85.725(a)(6)(A-C). A VSF adopting paragraphs (1) - (12) will comply with Texas Occupations Code, §2303.160. Types of Tests - pre-employment, annual, and random testing.

5. Impoundment Fee. – 16 Tex. Admin. Code Ch. 85.722(e). A VSF operator may charge a vehicle owner an Impoundment fee if Impoundment is performed in accordance with these rules. The Impoundment fee may not exceed \$20. If the VSF operator charges a fee for Impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed.

6. Storage Lot Signs. – 16 Tex. Admin. Code Ch. 85.1003(c). Failure to conspicuously place a sign, at the place of payment, stating "Non-Consent Tow Fees Schedules Available on Request".

7. Storage Lot Signs. – 16 Tex. Admin. Code Ch. 85.1003(e). Failure to conspicuously post a sign that states: "This vehicle storage facility must accept payment by an electronic check, credit card, or debit card for any fee or charge associated with delivery or storage of a vehicle."

8. Storage lot signage. – 16 Tex. Admin. Code Ch. 85.1003(b). The sign shall include all forms of payments the VSF accepts for any charge associated with delivery or storage of a vehicle. The sign must be located so it is clearly visible to a vehicle owner at the place of payment and shall have letters at least 1 inch in height with a contrasting background.

9. Mailed Notifications. – 14 Tex. Occ. Code Ch. 2303.153 & 16 Tex. Admin. Code Ch. 85.703(h)(1). Failure of mailed notifications to have all required information.

10. Records Required. – 16 Tex. Admin. Code Ch. 85.706(b). Failure to keep written records, with the minimum required information, on each vehicle kept or stored at the VSF.

DIVISION PROJECTS

New Technology – Mobi Route Optimization

The Field Operation's Liaisons, Fernando Reyes, Shawn O'Neal, and Morgan Okeefe each hosted a Mobi feedback session in their regions. We are reviewing this input to make improvements, if possible and in preparation for phase II implementations.

New Technology – E-Inspection

In anticipation of an E-Inspection process, Liaisons and Managers are updating the list of violations for the Barbers, Cosmetology, Towing, Vehicle Storage Facility, Vehicle Booters, Used Automotive Parts Recyclers, and Licensed Dog and Cat Breeders that will be uploaded into an E-Inspection program. We are also working with Kenny Wright, Project Manager, and Teresa Alvarez, Systems Analyst to develop a plan describing all the tasks involved in implementation.

TOW ROUND UP

2015 Tow Round Up Success

Date	Company	Truck	Total
East Region			
May 20, 2015	147	216	363
September 9, 2015	142	169	311
November 14, 2015	124	102	226
North Region			
December 14, 2015	54	65	119
TOTAL	467	552	1019



Robert McGrath



North Region Inspectors preparing for Tow Round Up

South Region are in the process of planning their Tow Round Up in the San Antonio area in the early part of 2016; date and location to come.

DIVISION PERSONNEL UPDATES

New Hire Training

December 15, 2015 we will begin new hire training with Juan Munoz, South Region Inspector for the Waco/Killeen/Temple area and Joe Carrasco, North Region Inspector for the Dallas/Fort Worth area.

On January 4, 2016 Duc Nguyen and Tisha Miller, East Region Inspectors for the Houston area will start with TDLR.

North Region Inspector Samuel Hernandez resigned as of Friday, December 18, 2015.

Inspection Statistics Tow/VSF/Booting

	Tow Truck Companies		Tow Trucks		Vehicle Storage Facilities		Booting Companies		Program Totals	
	FY 2016	FY 2015	FY 2016	FY 2015	FY 2016	FY 2015	FY 2016	FY 2015	FY 2016	FY 2015
SEPT	212	54	235	63	61	15	0	0	508	132
OCT	228	82	133	79	165	44	0	0	526	205
NOV	219	280	174	320	53	112	0	2	446	714
QTR 1	659	416	542	462	279	171	0	2	1480	1051

TOWING, STORAGE AND BOOTING ADVISORY BOARD

Licensing Division Staff Report **January 14, 2016**

Tow Trucks	New	New % Online	Renewed	Renewed % Online	Population
FY2010	3252	93%	7343	86%	10636
FY2011	3319	97%	7692	86%	10817
FY2012	3300	97%	7813	85%	10878
FY2013	3331	98%	7633	83%	10655
FY2014	3526	98%	7634	90%	10709
FY2015	3995	98%	7998	90%	11243
FY2016 QTR 1	1002	98%	2388	89%	11317

Tow Company and Tow Truck Population Numbers by Type of Towing

Type of Towing	Company	Tow Truck
Consent	1992	3717
Private Property	133	314
Incident Management	2030	7233
Total**	4068	11264

**As of 1/04/2016

Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY2010	310	80%	1695	78%	1945
FY2011	244	84%	1678	78%	1853
FY2012	308	81%	1925	78%	1851
FY2013	256	81%	2632	80%	1805
FY2014	152	88%	2706	87%	1756
FY2015	272	86%	2920	86%	1744
FY2016 QTR 1	45	78%	765	87%	1765

TOWING, STORAGE AND BOOTING ADVISORY BOARD

Licensing Division Staff Report **January 14, 2016**

Boot Companies	New	New % Online	Renewed	Renewed % Online	Population
FY2010	8	N/A	3	N/A	3
FY2011	2	N/A	2	N/A	11
FY2012	4	N/A	7	N/A	11
FY2013	6	N/A	4	N/A	13
FY2014	5	N/A	4	N/A	9
FY2015	3	N/A	7	N/A	11
FY2016 QTR 1	2	N/A	3	N/A	13

Tow Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2010	4555	77%	6492	98%	11818
FY2011	3971	78%	7089	98%	11708
FY2012	3567	88%	7466	99%	11590
FY2013	3830	92%	7482	99%	10905
FY2014	3765	93%	7462	93%	11812
FY2015	4148	95%	8256	99%	13345
FY2016 QTR 1	1061	94%	2153	99%	13457
FY2016 QTR 1 CT Tow	378	98%	575	99%	4218
FY2016 QTR 1 PP Tow	21	86%	62	100%	268
FY2016 QTR 1 IM Tow	423	93%	1005	99%	5804
FY2016 QTR 1 Dual IM Tow	209	94%	489	99%	2952
FY2016 QTR 1 Dual PP Tow	4	100%	7	100%	47
FY2016 QTR 1 Dual CT Tow	11	100%	10	100%	101
FY2016 QTR 1 Trainee	8	N/A	N/A	N/A	9

TOWING, STORAGE AND BOOTING ADVISORY BOARD

Licensing Division Staff Report **January 14, 2016**

Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY2010	1377	91%	3040	96%	5042
FY2011	1222	92%	2897	98%	4331
FY2012	1057	95%	2710	98%	3935
FY2013	967	97%	2453	99%	3649
FY2014	896	97%	2343	90%	3371
FY2015	939	97%	2267	99%	3314
FY2016 QTR 1	246	96%	513	99%	3344

Boot Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2010	28	N/A	0	N/A	28
FY2011	41	N/A	13	N/A	61
FY2012	21	67%	16	100%	44
FY2013	40	83%	16	100%	60
FY2014	52	71%	18	100%	74
FY2015	25	72%	19	95%	54
FY2016 QTR 1	7	50%	5	100%	58